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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/724,114

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Adrian Meredith Sunter

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EXAMINER

WEEKS, GLORIA R

ART UNIT

PAPER NUMBER

3721

DATE MAILED: 09/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/724,114

Applicant(s)

SUNTER ET AL.

Examiner

Gloria R. Weeks

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-8 is/are allowed.
- 6) ☒ Claim(s) 9,10,12-14,19,20,22 and 24-26 is/are rejected.
- 7) ☒ Claim(s) 11,15-18, 21 and 23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION

1. Applicant's Arguments filed in the Appeal Brief received on June 2, 2006 are persuasive and, therefore, the finality of that action is withdrawn. Prosecution is hereby reopened.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 9, 10, 12-14 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Greanias (USPN 3,977,483).

In reference to claim 9, 10, 12 and 13, Greanias et al. discloses a packaging apparatus comprising: a measurer (32); a dispenser (44) downstream of the measurer (32); a check weigher (46); and a controller (36) that adjusts the quantity of additive supplied by the additive dispenser (44) such that the combined weight equals a predetermined amount (column 2 lines 51-61).

The term “flavoring” is not found to be a structural limitation of the apparatus, rather a description of the contents or use of the apparatus.

In reference to claim 14, Greanias et al. discloses a packaging apparatus comprising: a weigher (32); an additive dispenser (44); a packaging machine (48) to which dispensed articles and additive are supplied (24, 26); a check weigher (46); and a controller (36) that adjusts the quantity of additive supplied by the additive dispenser (44) such that the combined weight equals a predetermined amount (column 2 lines 51-61).

Regarding claim 20, Greanias et al. discloses a packaging method comprising: dispensing a predetermined quantity of articles (20, 22); supplying a quantity of additive (38) to the dispensed quantity of articles; packaging the dispensed quantities of articles and the additive (24, 26); monitoring (36) and adjusting the combined weight such that the combined weight of the package and mixture meets a predetermined amount (column 2 lines 51-61).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Greanias (USPN 3,977,483) in view of Ruf et al. (USPN 4,074,507).

In reference to claim 19, Greanias discloses the additive dispenser including a bulk hopper (40) but does not disclose a compressed gas transporter associated with the additive dispenser. Ruf et al. teaches a dispenser having a bulk hopper (19, 20) and a compressed gas transporter (62, 63). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the dispenser of Greanias to include the compressed gas transporter of Ruf et al., since column 6 lines 19-21 of Ruf et al. state that such a modification allows for removal of undesired air from the hopper.

6. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Greanias (USPN 3,977,483) in view of Parsons et al. (USPN 6,558,721).

Regarding claim 22, Greanias et al. discloses a method of dispensing articles from a standard dispensing machine to a container fed by a conveyor, but does not disclose how the articles are

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dispensed. Parsons et al. teaches a method of dispensing articles to a container fed by a conveyor, wherein the articles are dispensed by a combinational weigher. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the method of Greanias to include the step of dispensing articles from a combinational weigher for the purpose of dispensing a weight of articles as close to a desired weight as possible.

7. Claims 24-26 rejected under 35 U.S.C. 103(a) as being unpatentable over Greanias (USPN 3,977,483).

With respect to claims 24-26, whether the articles packaged are potato chips, a foodstuff, or include an added flavoring is not found to affect the structure of the apparatus, as the apparatus would work with both edible and non-edible articles. The term "flavoring" is also not found to be a structural limitation of the apparatus, a description of the contents or use of the apparatus.

Allowable Subject Matter

8. Applicant's arguments, see pages 8-17, filed June 2, 2006, with respect to claims 1-8 have been fully considered and are persuasive. The 35 USC 103 rejection of claims 1-8 has been withdrawn. Therefore, claims 1-8 are allowed.

9. Claims 11, 15-18, 21 and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

10. Applicant's arguments with respect to claims 9, 10, 12-14, 19, 20 and 22-26 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion


11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Refer to attachment for notice of references cited and recommended for consideration based on their disclosure of limitations related to the claimed invention.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria R. Weeks whose telephone number is (571) 272-4473. The examiner can normally be reached on M-F 8am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Gloria R. Weeks
Examiner
Art Unit 3721



Rinaldi I. Rada
Supervisory Patent Examiner
Group 3700

grw
August 31, 2006